



## **The California Public Utilities Commission's Policy on Equal Employment Opportunity, Harassment, Sexual Harassment, and Retaliation, including under the Genetic Information Nondiscrimination Act (2008) (GINA)**

### **Discrimination Prohibited**

The California Public Utilities Commission (CPUC) is an equal opportunity employer. Consistent with state and federal law, it has been and continues to be the policy of the CPUC to prohibit discrimination because of race, color, religion (including religious accommodations), sex (gender, including gender identity and expression), sexual orientation, marital status, national origin (including language use restrictions), ancestry, mental and/or physical disability, medical condition (cancer, genetic information and characteristics, requests for medical and family care leave), age (40 and above), military service, pregnancy, childbirth and related medical conditions, and any other classification protected by federal, state, and local laws.

The CPUC ensures the fulfillment of this policy in all aspects of the CPUC's hiring processes, applications, screenings, interviews, promotions, transfers, demotions, layoffs, terminations, recruitment, advertising, pay, and other forms of compensation, training, and general working conditions and treatment during employment.

### **Harassment Prohibited**

*All employees are expected to behave at all times in a professional and respectful manner.*

The CPUC prohibits harassment on the basis of race, color, religion (including religious accommodations), sex (gender, including gender identity and expression), sexual orientation, marital status, national origin (including language use restrictions), ancestry, mental and/or physical disability, medical condition (cancer, genetic information and characteristics, requests for medical and family care leave), age (40 and above), military service, pregnancy, childbirth and related medical conditions, and any other classification protected by federal, state, and local laws. The CPUC does not tolerate harassment of or by any employees, job applicants, contractors, clients, customers, vendors, members of the public, or other third party.

### **Harassment Defined**

As defined in this policy, harassment is unwelcome verbal, visual, or physical conduct based on one or more of the above protected categories that is so severe or pervasive that it creates an intimidating, offensive, or hostile work environment.



## Harassing Behaviors

For this policy, prohibited harassment in the workplace includes but is not limited to the following types of behavior:

- Verbal (including slurs, jokes, insults, comments, epithets, or teasing)
- Visual (including leering; making offensive gestures; displaying offensive or suggestive objects, posters, pictures, cartoons, drawings, computer displays; sending offensive or suggestive e-mails);
- Physical conduct (including physically threatening another; unwanted physical touching or assault; impeding or blocking someone's way or movement);
- Sexual harassment (including making unwanted sexual advances or propositions which grant an employment benefit upon an exchange of sexual favors).

Harassment does not require the exercise of official power. Anyone from an entry level clerk to the organization's Director can be a harasser. Anyone found to have unlawfully harassed job applicants, contractors, employees, or members of the public may be held personally liable for the damages caused by the harassment.

Any such conduct, even if not unlawful, violates the "Harassment Prohibited" section of this policy.

## Sexual Harassment

As part of its anti-harassment policy, the CPUC prohibits sexual harassment of or by any employees, job applicants, contractors, clients, customers, vendors, members of the public, or other third party. Sexual harassment of a person of the same gender as the harasser is also prohibited.

## Types of Sexual Harassment

- *Quid Pro Quo*
  - Something for something<sup>1</sup>.
- *Hostile Work Environment*
  - Harassment directed at complaining party; or
  - Complaining party witnessed harassment of others.

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<sup>1</sup> Quid pro quo harassment occurs when submission to sexual conduct is made, either expressly or implicitly, a condition of concrete employment benefits.



## **Sexual Harassment Defined**

For purposes of this policy, and as defined under the Fair Employment and Housing Act (FEHA), sexual harassment is harassment based on sex or of a sexual nature and includes:

- Unwanted visual, verbal or physical conduct that is sexual in nature;
- A request for sexual favors; or
- Exposure to offensive conduct of a sexual nature.

Many forms of offensive behavior can constitute sexual harassment, including all of the actions listed in the “Harassing Behaviors” section, and the following types of prohibited sexual harassment behaviors:

- Conversations regarding sexual activities and other verbal or physical conduct of a sexual nature;
- Unwelcome sexual advances, flirtations, advances, leering, whistling, touching, pinching, or assault;
- Requests for sexual favors or demands for sexual favors in exchange for favorable treatment;
- Obscene or vulgar gestures, posters, pictures, or comments;
- Sexual jokes or comments about a person’s body, sexual prowess, or sexual deficiencies;
- Propositions or suggestive or insulting comments of a sexual nature;
- Derogatory cartoons, posters, pictures, and drawings;
- Sexually-explicit e-mails or voicemails;
- Uninvited touching of a sexual nature;
- Unwelcome sexually-related comments;
- Conversation about one’s own or someone else’s sex life;
- Conduct or comments consistently targeted at only one gender, even if the content is not sexual;
- Teasing or other conduct directed toward a person because of the person’s gender.

## **Harassment Because of Sex**

For purposes of this policy and as defined under the FEHA, "harassment" because of sex includes sexual harassment, gender harassment, and harassment based on pregnancy, childbirth, or related medical conditions. Such harassing behavior does not have to be sexual in nature.

All such conduct is unacceptable in the workplace and in any work-related settings, including business trips and business-related social functions, regardless of whether the conduct is engaged in by a supervisor, co-worker, job applicant, contractor, client, customer, vendor, member of the public, or other third party.



## **Retaliation Prohibited**

The CPUC prohibits retaliation against an employee who opposes an unlawful employment practice or who files a complaint, testifies, or participates in an employment discrimination proceeding (such as an investigation or lawsuit).

## **Retaliation Defined**

As defined in this policy, and consistent with federal and state laws, prohibited retaliation occurs when an adverse action is taken against an employee because of the employee's opposition to an unlawful employment practice or participation in an employment discrimination proceeding.

Employees are not excused from continuing to perform their jobs or following the CPUC's legitimate workplace rules just because they have opposed an unlawful employment practice or participated in an employment discrimination proceeding.

## **Retaliatory Behaviors**

For this policy, prohibited retaliation in the workplace may include, but is not limited to, the following types of adverse actions:

- Employment actions such as termination, refusal to hire, transfer, demotion, layoff, termination, reduction in pay and other forms of compensation, and denial of promotion;
- Other actions affecting employment such as threats, unjustified negative evaluations, unjustified negative references, unjustified removal or addition of job duties, or increased surveillance; and
- Any other actions, such as an assault or unfounded civil or criminal charges, that are likely to deter reasonable people from pursuing their rights.

## **Rank and File's Responsibility to Report Violations**

If an employee believes someone has violated the CPUC's Policy on Equal Employment Opportunity, Harassment, Sexual Harassment, and Retaliation, including under the Genetic Information Nondiscrimination Act, the employee should bring the matter to the immediate attention of the EEO Officer, Human Resources Director, or any supervisor or manager.



## **Supervisor's Responsibility to Report Violations**

Every supervisor who learns of any employee's concern about conduct in violation of the CPUC's Policy on Equal Employment Opportunity, Harassment, Sexual Harassment, and Retaliation, including under the Genetic Information Nondiscrimination Act, whether in a formal complaint or informally, must immediately report the issue to the EEO Officer, the Human Resources Director, or to a manager.

## **How to File a Complaint**

Any violation of the CPUC's Policy on Equal Employment Opportunity, Harassment, Sexual Harassment, and Retaliation, including under the Genetic Information Nondiscrimination Act will not be tolerated. If an individual believes someone has violated any part of this policy, he or she should bring the matter to the immediate attention of the CPUC's EEO Officer (415-703-1681), who has the responsibility for administering the CPUC's EEO program and to promptly investigate the facts and circumstances of any complaint. Alternatively, individuals may also contact the CPUC's Human Resources Director, or any supervisor or manager to file a complaint.

This policy and the procedures to file a complaint are available to all employees on the CPUC's web page and on the CPUC's Intranet at: <http://epuc/PUC/home.htm> under the EEO Office's web page. Additional information on how to file a complaint, and the online anti-discrimination brochure, are also available there and on bulletin boards throughout the CPUC offices.

In order to assist the CPUC in assessing complaints, conducting thorough investigations, and taking any appropriate corrective measures necessary, individuals filing a complaint about a potential violation of this policy are encouraged to provide as much information as possible, such as names of people involved, names of any witnesses, and any documentary evidence.

An employee or applicant also has the right to simultaneously pursue such allegations with the external regulatory compliance agencies at:

- The State level - The Department of Fair Employment and Housing (DFEH) at:  
1 (800) 884-1684, TTY: 1 (800) 700-2320, [www.dfeh.ca.gov](http://www.dfeh.ca.gov); or
- The Federal level - The Equal Employment Opportunity Commission (EEOC) at:  
1 (800) 669-4000, TTY: 1 (800) 669-6820, [www.EEOC.gov](http://www.EEOC.gov).



## **How to File a Complaint: Disability Complaints**

As per SB 1309, effective January 1, 2013, the State Personnel Board (SPB) may receive complaints of discrimination and harassment based upon the protected characteristic of a mental or physical disability, and/or medical condition. This includes complaints of retaliation based upon exercising one's rights to be protected from discrimination and harassment attributed to a mental or physical disability, and/or medical condition.

Failure to provide reasonable accommodation based upon disability is a form of disability discrimination and will also be subject to the jurisdiction of the SPB. The complaint must be filed first with the CPUC within one year of the act of harm. SPB Appeals can be contacted at: (916) 653-0799, TDD: (916) 653-5505, [www.spb.ca.gov/appeals/info.cfm](http://www.spb.ca.gov/appeals/info.cfm).

Please access the SPB website for timeframes in which to file a complaint.

## **Investigation Procedures**

The CPUC will promptly investigate the facts and circumstances of any claim of discrimination, harassment, sexual harassment and retaliation. Generally during an investigation, the CPUC will:

- Interview the complainant and respondent involved in the alleged violation;
- Conduct further interviews with witnesses, subject experts, etc., as necessary;
- Document the CPUC's findings regarding the complaint;
- Document recommended follow-up actions and remedies, if warranted;
- Inform the complainant and respondent of the CPUC's findings.

Upon completion of the investigation, the CPUC will take corrective measures against any person who has engaged in conduct in violation of this policy if the CPUC determines such measures are necessary.

## **Cooperation with an EEO Investigation**

The CPUC cannot remedy claimed discrimination, harassment, sexual harassment or retaliation unless individuals bring these claims to the attention of the EEO Office or management, and cooperate with the CPUC's EEO investigations. Failure to report such claims prevents the CPUC from taking steps to remedy the problem. Failure to cooperate with an EEO investigation can be grounds for disciplinary action.

The CPUC recognizes that under certain circumstances, it has an independent duty to investigate an allegation of discrimination, retaliation, harassment and/or sexual harassment, regardless of whether a complaint is actually filed.



### **Confidentiality**

To the extent possible, the CPUC will endeavor to keep the reporting employee's concerns confidential but cannot guarantee confidentiality as some relevant information may be revealed or disclosed during the scope of the investigation.

### **Violation of Policy**

Any violation of the CPUC's Policy on Equal Employment Opportunity, Harassment, Sexual Harassment, Retaliation including under the Genetic Information Nondiscrimination Act (2008) will not be tolerated. Anyone, regardless of his or her position or title, whom the CPUC determines has engaged in conduct that violates this policy will be subject to appropriate disciplinary action, up to and including termination.

### **Policy Revision**

The CPUC will update and reaffirm this policy as needed.